

# LUKAS, NACE GUTIERREZ & SACHS

CHARTERED

1650 TYSONS BOULEVARD, SUITE 1500

MCLEAN, VIRGINIA 22102

703 584 8678 • 703 584 8696 FAX

WWW.FCCLAW.COM

RUSSELL D. LUKAS\*

DAVID L. NACE\*

THOMAS GUTIERREZ\*

ELIZABETH R. SACHS\*

GEORGE L. LYON, JR.

PAMELA L. GIST\*

DAVID A. LAFURIA

B. LYNN F. RATNAVALE\*

TODD SLAMOWITZ\*

STEVEN M. CHERNOFF\*

CONSULTING ENGINEERS

ALI KUZEHKANANI

LEROY A. ADAM

LEILA REZANAVAZ

SUMEET K. BHALOTIA

OF COUNSEL

JOHN J. MCAVOY\*

J.K. HAGE III\*

LEONARD S. KOLSKY\*

HON. GERALD S. MCGOWAN\*

\*NOT ADMITTED IN VA

(202) 828-9470

tgutierrez@fcclaw.com

April 20, 2007

## *Via Electronic Filing*

Marlene H. Dortch, Secretary

Federal Communications Commission

445 12<sup>th</sup> Street, SW

Washington, DC 20554

**Re: Ex Parte Presentation WT Docket No. 06-150**

Dear Ms. Dortch:

On behalf of Aloha Partners, LP ("Aloha"), we write to address the issue of power limits for the Lower 700 MHz Band.

One carrier has recently urged the Commission to revise power limits in an inappropriate manner. Specifically, a proposal has been presented to eliminate the long standing opportunity licensees in certain frequency blocks (specifically Blocks A and B within the Lower 700 MHz Band) have to operate with a power up to 50k. The only justification proposed for this drastic change is the desire to more closely align Lower and Upper Band 700 MHz rules and to protect against an undefined "potential" interference.

Aloha opposes the proposed change for many reasons. First, it disproportionately and negatively impacts on existing Lower 700 MHz Band licensees. If these entities want to extend systems into either of the impacted bands, they would have to operate separate systems at different powers. This is particularly unreasonable at a time when it appears that the only opportunity that smaller carriers will have in the upcoming auction is in the Lower 700 MHz band. It is also contrary to the Commission's longstanding policy of not regulating virtually identical bands in substantially different ways without justification.

The 50k W power limit for the Lower 700 MHz band has been in effect for years. MediaFlo currently operates at that level. Yet there have been no complaints of interference. It would be inappropriate for the government to change longstanding, carefully crafted out rules simply because one carrier asks for the change in order to cause the Lower 700 MHz Band to compliment better with

another band in which it has an apparent interest--especially where there is nothing in the record to support a need for it.

The proposed change is also transparently selective. It intentionally does not alter power on the E Block in the Lower 700 MHz Band, which block may be used to provide service to the party seeking changes for the A and B blocks. If there are to be any changes in power here--and there should not be-- it must apply to the E block as well.

The Commission's auction program generally works well because it carries with it an air of integrity. Recent proposals to selectively change power would, if adopted, undermine that integrity by causing the auction to appear (and actually be) inappropriately staged prior to being conducted. We urge the Commission not to take such action.

Respectfully Submitted,  
ALOHA PARTNERS, L.P.

\_\_\_\_\_/s/

Thomas Gutierrez  
*Counsel for Aloha Partners, LP*

cc: Julius Knapp,  
Bruce Gottlieb,  
Barry Ohlson,  
Aaron Goldberger,  
Angela E. Giancarlo  
Erika Olsen  
Ian Dillner